

## HOUSE BILL NO. 5049

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Helmer)

A BILL to amend and reenact §§ 9.1-101, 15.2-1123.1, and 52-11.3 of the Code of Virginia and to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 55.4, consisting of a section numbered 2.2-5515, and by adding a section numbered 15.2-1721.1, relating to policing reform.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 9.1-101, 15.2-1123.1, and 52-11.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 2.2 a chapter number 55.4, consisting of a section numbered 2.2-5515, and by adding a section numbered 15.2-1721.1, as follows:**

CHAPTER 55.4.LIMITATION ON ACQUISITION OF MILITARY PROPERTY.**§ 2.2-5515. Acquisition of military property.**

All agencies of the Commonwealth or directors or chief executives of any agency or department employing law-enforcement officers as defined in § 9.1-101 are prohibited from acquiring, purchasing, or otherwise accepting on any terms (i) tracked armored vehicles; (ii) weaponized aircraft, vessels, and vehicles of any kind; (iii) firearms of .50-caliber or higher; (iv) ammunition of .50-caliber or higher; (v) grenade launchers; and (vi) bayonets from the U.S. Department of Defense for use in the law-enforcement activities of any law-enforcement agency of the Commonwealth or its political subdivisions.

**§ 9.1-101. Definitions.**

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication,

27 correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection,  
28 storage, and dissemination of criminal history record information.

29 "Board" means the Criminal Justice Services Board.

30 "Conviction data" means information in the custody of any criminal justice agency relating to a  
31 judgment of conviction, and the consequences arising therefrom, in any court.

32 "Correctional status information" means records and data concerning each condition of a convicted  
33 person's custodial status, including probation, confinement, work release, study release, escape, or  
34 termination of custody through expiration of sentence, parole, pardon, or court decision.

35 "Criminal history record information" means records and data collected by criminal justice  
36 agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,  
37 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall  
38 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title  
39 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional  
40 status information.

41 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof  
42 which as its principal function performs the administration of criminal justice and any other agency or  
43 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the  
44 purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within  
45 the context of its criminal justice activities, employs special conservators of the peace appointed under  
46 Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires  
47 its officers or special conservators to meet compulsory training standards established by the Criminal  
48 Justice Services Board and submits reports of compliance with the training standards and (b) the private  
49 corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent  
50 that the private corporation or agency so designated as a criminal justice agency performs criminal justice  
51 activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted  
52 under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually  
53 Violent Predators Act (§ 37.2-900 et seq.).

54 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant  
55 to § 18.2-271.2.

56 "Criminal justice agency" includes the Department of Criminal Justice Services.

57 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

58 "Criminal justice agency" includes the Virginia State Crime Commission.

59 "Criminal justice information system" means a system including the equipment, facilities,  
60 procedures, agreements, and organizations thereof, for the collection, processing, preservation, or  
61 dissemination of criminal history record information. The operations of the system may be performed  
62 manually or by using electronic computers or other automated data processing equipment.

63 "Department" means the Department of Criminal Justice Services.

64 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic  
65 means. The term shall not include access to the information by officers or employees of a criminal justice  
66 agency maintaining the information who have both a need and right to know the information.

67 "Law-enforcement officer" means any full-time or part-time employee of a police department or  
68 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision  
69 thereof, or any full-time or part-time employee of a private police department, and who is responsible for  
70 the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the  
71 Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control  
72 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine  
73 Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of  
74 the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of  
75 the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation  
76 commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the  
77 Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer  
78 employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-  
79 809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State  
80 Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the

operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or

"qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

**§ 15.2-1123.1. Lynchburg Regional Airport police department.**

The City of Lynchburg may by ordinance establish an airport police department at the Lynchburg Regional Airport. The authority of the airport police department shall be limited to real property owned, leased, or controlled by the Airport. Such authority shall not supersede the authority, duties, or jurisdiction

vested by law with the local police department or sheriff's office, including as provided in §§ 15.2-1609 and 15.2-1704. The airport police department and airport police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Criminal Justice Services Board that the Department of Criminal Justice Services designates as applicable to private police departments. Any person employed as an airport police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to Chapter 1 (§ 9.1-100 et seq.) of Title 9.1. An airport police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law-enforcement officer" or "qualified retired law-enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth. The airport police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2.

**§ 15.2-1721.1. Acquisition of military property.**

All localities, sheriffs, chiefs of police, or directors or chief executives of any agency or department employing deputy sheriffs or law-enforcement officers as defined in § 9.1-101 are prohibited from acquiring, purchasing, or otherwise accepting on any terms (i) tracked armored vehicles; (ii) weaponized aircraft, vessels, and vehicles of any kind; (iii) firearms of .50-caliber or higher; (iv) ammunition of .50-caliber or higher; (v) grenade launchers; and (vi) bayonets from the U.S. Department of Defense for use in the law-enforcement activities of any law-enforcement agency of the Commonwealth or its political subdivisions.

**§ 52-11.3. Acquisition of military property.**

A. The Superintendent of State Police is authorized to apply for and accept grants or loans of personal property from the ~~United States~~ U.S. Department of Defense for use in the law-enforcement activities of the Department of State Police or any other law-enforcement agency of the Commonwealth

or its political subdivisions. In connection with the receipt of such property, the Department of State Police and any other law-enforcement agency to which the property is transferred, may agree to hold the United States government harmless against claims for damages arising out of the use of the property received. Such other law-enforcement agencies may also agree to hold the Commonwealth harmless against such claims.

B. Notwithstanding the provisions of subsection A, the Superintendent is prohibited from acquiring, purchasing, or otherwise accepting on any terms (i) tracked armored vehicles; (ii) weaponized aircraft, vessels, and vehicles of any kind; (iii) firearms of .50-caliber or higher; (iv) ammunition of .50-caliber or higher; (v) grenade launchers; and (vi) bayonets from the U.S. Department of Defense for use in the law-enforcement activities of the Department of State Police or any other law-enforcement agency of the Commonwealth or its political subdivisions.

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